

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION	Case No. 2:12-md-02323-AB  MDL No. 2323  <b>Hon. Anita B. Brody</b>
Kevin Turner and Shawn Wooden, <i>on behalf of themselves and others similarly situated,</i>  Plaintiffs,  v.  National Football League and NFL Properties, LLC, successor-in-interest to NFL Properties, Inc.,  Defendants.	Civ. Action No.: 14-cv-00029-AB
THIS DOCUMENT RELATES TO: ALL ACTIONS	

**CO-LEAD CLASS COUNSEL CHRISTOPHER A. SEEGER'S  
STATUS REPORT WITH UPDATED ACTUARIAL ANALYSIS**

Co-Lead Class Counsel, recognizing that Year One of the implementation phase of the 65-year Settlement Program had concluded, in accordance with his fiduciary duties to the Settlement Class Members, to keep them informed, and to update the Court in furtherance of its ongoing jurisdiction to oversee the Settlement's implementation phase, determined that it would be appropriate to provide an updated actuarial analysis that reviews the progress of the Settlement Program thus far, and recalculates the projections through Year Sixty-Five of the Settlement Program, based upon the currently available data. As such, Co-Lead Class Counsel respectfully submits the attached Updated Analysis of the NFL Concussion Settlement, prepared by Thomas Vasquez, Ph.D. of Ankura Consulting Group. This update is based upon the Claims Administrator's data through June 30, 2018.

From time to time, Co-Lead Class Counsel expects to provide further updates as additional data become available.

Dated: July 18, 2018

Respectfully submitted,

/s/Christopher A. Seeger

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*Co-Lead Class Counsel*

**AN UPDATED ANALYSIS OF THE NFL**  
**CONCUSSION SETTLEMENT**

**Prepared by:**  
**Thomas Vasquez Ph.D.**  
**Ankura Consulting Group**  
**July 13, 2018**

I was originally asked by Co-Lead Class Counsel in *In re National Football League Players' Concussion Injury Litigation*, MDL No. 2323 (E.D. Pa.) to undertake an analysis to assist in settlement negotiations in mid-2013. My conclusions from that work are reflected in the NFL Concussion Liability Forecast, dated February 10, 2014. In late 2014, Co-Lead Class Counsel asked me to prepare a Declaration and to elaborate on certain elements of the work I had conducted for my initial report. A discussion of those analyses is contained in my Declaration, dated November 12, 2014. In March of 2017, I was asked to provide updated analyses to reflect changes to the initial settlement agreement and additional data concerning Class Member participation rates. A discussion of those analyses is contained in my Declaration, dated April 7, 2017. In December of 2017, I conducted an analysis of conclusions reached by Dr. Rubenstein.<sup>1</sup> My conclusions are contained in my report of January 3, 2018.<sup>2</sup>

I have now been asked by Co-Lead Class Counsel to compare actual approval and payment experience with the original amounts estimated in 2014. My analysis is based on the actual claims experience available through the end of June 2018 – the first fourteen months of experience (the first claim approved for payment was in May 2017).

There are three conclusions that are clear:

- The amount actually approved for payment in the first year (through April 2018) is approximately \$378 million<sup>3</sup> - \$154 million or 68% higher than originally estimated in 2014. The approved amount continues to exceed the original estimate. Indeed, the approved amount for May and June was \$47 million – nearly twice the amount estimated in 2014.
- The participation rate in the Settlement as a whole, including the MAF program, is much higher than anticipated. The participation rate is now known - approximately 80% of former players have registered. The achieved participation rate is 21 percent points higher than the 59% estimated in 2014.
- The higher participation rate (and the expansion of eligibility) ensures that the higher approved amounts to date are not simply an acceleration of payments. I now estimate that approximately \$1.4 billion will be paid to class members under the MAF program - \$468 million or 50% higher than originally estimated.

It was expected that the amount approved and paid would be heavily front-loaded. There were a large number of claims from Class Members with lawsuits filed before 2013, who had obtained diagnoses prior to the Settlement, and those who obtained diagnoses after the Settlement but before the Effective Date of the Settlement. These claims were expected to be filed at the opening of the Settlement and would dominate approved and paid claims.

Table 1 shows the updated estimate of the total settlement amounts to be paid under the MAF program. The table splits the total settlement amount into three components – the first year, the following two years, and all subsequent years. In total, due to higher participation rates and

<sup>1</sup> "Expert Report of William B. Rubenstein"; December 3, 2017.

<sup>2</sup> All four of these documents have been provided earlier and are not reproduced here.

<sup>3</sup> Based on experience to date, this amount assumes that 90% of amounts under audit will not be paid. This reduces the total amount by approximately \$38 million.



expanded eligibility I now estimate that approximately \$1.4 billion will be paid to class members under the MAF program - \$468 million or 50% higher than originally estimated.

The actual approved amounts in the first year exceeded the original estimate by approximately \$154 million or 68%. Over the next two years, I now estimate that approved amounts will exceed estimated amounts by approximately \$52 million or 64%. The remaining claims paid (for year Four through the last claim filed) are now estimated to be \$891 million or 42% higher than originally estimated.

**Table 1**

**Comparison of Original Forecast with Current Actuals and Updated Future  
Payments: MAF Only  
(Dollars in Millions)**

Time Period	Original Estimate	Actual/ Current Estimate	Actual less Estimated	
			Amount	Percent
First Twelve Months	\$224.5	\$378.1	\$153.6	68.4%
Next Two Years	\$80.6	\$132.3	\$51.7	64.1%
Remaining Years	<u>\$628.3</u>	<u>\$890.62</u>	<u>\$262.3</u>	<u>41.8%</u>
Total	\$933.4	\$1,401.0	\$467.6	50.1%

Note: Original estimate made in February 2014

Actuals May 2017 through April 2018

The original forecasting model was based on: (1) detailed information on every former player; (2) the propensity of former players to contract a compensable disease; (3) the timing of the diagnosis of disease and (4) the propensity of former players to register and file a claim. It was recognized at the time of the original estimate that the weakest assumption was the propensity to file a claim. The propensity depends on the willingness of the players to admit they contracted such disease and the ability of plaintiff lawyers to educate and inform the former players to encourage their involvement, regardless of whether they had yet contracted a disease or not.

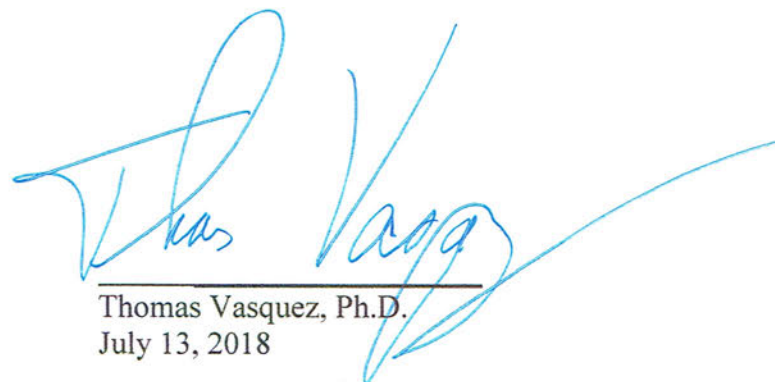
Clearly, the effort was successful – far exceeding the participation rate in most class settlements. Table 2 shows the estimated and actual participation rates. The original estimates assumed a 95% participation rate for individuals already filing a claim (and/or represented by counsel) and a 50% participation rate for all other former players. These assumptions yielded an approximately 59% participation rate overall. However, the actual participation rate is approximately 80%. This 33% increase in the participation rate (from 59% to 80%) has a direct increase in the projected total value of the MAF.

**Table 2****Player Registrations as Class Members: Estimated Vs. Actual**

<u>Player Categories</u>	<u>Estimated Registrations</u>	<u>Actual Registrations</u>	<u>Actual Less Estimated Registrations</u>	
			<u>Count</u>	<u>Percent</u>
Estimated Registered Players <sup>a</sup>	12,200	17,200	5,000	41.0%
Total Class Members <sup>b</sup>	20,500	21,500	1,000	4.9%
Participation Rate	59%	80%	na	na

a.) Ex. A; Declaration of Orran L. Brown, Sr. ISO Third Joint Status Report on the Implementation of the Settlement Program; Paragraph 5, (excludes Derivative Claimants.)

b.) Players of NFL affiliate leagues were included as eligible class members in my April, 2017 report



Thomas Vasquez, Ph.D.  
July 13, 2018

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing document was served electronically via the Court's electronic filing system upon all counsel of record in this matter.

Dated: July 18, 2018

/s/Christopher A. Seeger

Christopher A. Seeger